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those documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which the Tribe believes are relevant to its assertions regarding jurisdiction; and a description of the locations of the public water systems the Tribe proposes to regulate.

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective Public Water System program. The narrative statement should include:

(1) A description of the Indian Tribe's previous management experience which may include, the administration of programs and services authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facilities Construction Activity Act (42 U.S.C. 2004a).

(2) A list of existing environmental or public health programs administered by the Tribal governing body and a copy of related Tribal laws, regulations and policies.

(3) A description of the Indian Tribe's accounting and procurement systems.

(4) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government.

(5) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary enforcement responsibility, including a description of the relationship between owners/operators of the public water systems and the agency.

(6) A description of the technical and administrative capabilities of the staff to administer and manage an effective Public Water System Program or a plan which proposes how the Tribe will acquire additional administrative and/or technical expertise. The plan must address how the Tribe will obtain the funds to acquire the additional administrative and technical expertise.

(e) The Administrator may, in his discretion, request further documentation necessary to support a Tribe's eligibility.

(f) If the Administrator has previously determined that a Tribe has met the prerequisites that make it eligible to assume a role similar to that

of a state as provided by statute under the Safe Drinking Water Act, the Clean Water Act, or the Clean Air Act, then that Tribe need provide only that information unique to the Public Water System program (paragraphs (c), (d)(5) and (6) of this section).

[53 FR 37411, Sept. 26, 1988, as amended at 59 FR 64344, Dec. 14, 1994]

§ 142.78 Procedure for processing an Indian Tribe's application.

(a) The Administrator shall process a completed application of an Indian Tribe in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(b) A tribe that meets the requirements of § 141.72 of this chapter is eligible to apply for development grants and primacy enforcement responsibility for a Public Water System Program and associated funding under section 1443(a) of the Act and for primary enforcement responsibility for public water systems under section 1413 of the Act and for the authority to waive the mailing requirement of § 141.155(a) of this chapter.

[53 FR 37411 Sept. 26, 1988, as amended at 59 FR 64345, Dec. 14, 1994; 63 FR 71376, Dec. 28, 1998]

Subpart I—Administrator's Review of State Decisions that Implement Criteria Under Which Filtration Is Required

SOURCE: 54 FR 27540, June 29, 1989, unless otherwise noted.

§ 142.80 Review procedures.

(a) The Administrator may initiate a comprehensive review of the decisions made by States with primary enforcement responsibility to determine, in accordance with § 141.71 of this chapter, if public water systems using surface water sources must provide filtration treatment. The Administrator shall complete this review within one year of its initiation and shall schedule subsequent reviews as (s)he deems necessary.

(b) EPA shall publish notice of a proposed review in the FEDERAL REGISTER. Such notice must:

(1) Provide information regarding the location of data and other information

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pertaining to the review to be conducted and other information including new scientific matter bearing on the application of the criteria for avoiding filtration; and

(2) Advise the public of the opportunity to submit comments.

(c) Upon completion of any such review, the Administrator shall notify each State affected by the results of the review and shall make the results available to the public.

§ 142.81 Notice to the State.

(a) If the Administrator finds through periodic review or other available information that a State (1) has abused its discretion in applying the criteria for avoiding filtration under § 141.71 of this chapter in determining that a system does not have to provide filtration treatment, or (2) has failed to prescribe compliance schedules for those systems which must provide filtration in accordance with section 1412(b)(7)(C)(ii) of the Act, (s)he shall notify the State of these findings. Such notice shall:

(1) Identify each public water system for which the Administrator finds the State has abused its discretion;

(2) Specify the reasons for the finding;

(3) As appropriate, propose that the criteria of § 141.71 of this chapter be applied properly to determine the need for a public water system to provide filtration treatment or propose a revised schedule for compliance by the public water system with the filtration treatment requirements;

(b) The Administrator shall also notify the State that a public hearing is to be held on the provisions of the notice required by paragraph (a) of this section. Such notice shall specify the time and location of the hearing. If, upon notification of a finding by the Administrator that the State has abused its discretion under § 141.71 of this chapter, the State takes corrective action satisfactory to the Administrator, the Administrator may rescind the notice to the State of a public hearing.

(c) The Administrator shall publish notice of the public hearing in the FEDERAL REGISTER and in a newspaper of general circulation in the involved

State, including a summary of the findings made pursuant to paragraph (a) of this section, a statement of the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

(d) Hearings convened pursuant to paragraphs (b) and (c) of this section shall be conducted before a hearing officer to be designated by the Administrator. The hearing shall be conducted by the hearing officer in an informal, orderly, and expeditious manner. The hearing officer shall have the authority to call witnesses, receive oral and written testimony, and take such other action as may be necessary to ensure the fair and efficient conduct of the hearing. Following the conclusion of the hearing, the hearing officer may make a recommendation to the Administrator based on the testimony presented at the hearing and shall forward any such recommendation and the record of the hearing to the Administrator.

(e) Within 180 days after the date notice is given pursuant to paragraph (b) of this section, the Administrator shall:

(1) Rescind the notice to the State of a public hearing if the State takes corrective action satisfactory to the Administrator; or

(2) Rescind the finding for which the notice was given and promptly notify the State of such rescission; or

(3) Uphold the finding for which the notice was given. In this event, the Administrator shall revoke the State's decision that filtration was not required or revoke the compliance schedule approved by the State, and promulgate, as appropriate, with any appropriate modifications, a revised filtration decision or compliance schedule and promptly notify the State of such action.

(f) Revocation of a State's filtration decision or compliance schedule and/or promulgation of a revised filtration decision or compliance schedule shall take effect 90 days after the State is notified under paragraph (e)(3) of this section.

Subpart J [Reserved]